

REMARKS

Claims 1-14 are now pending in this application for which applicant seeks reconsideration.

IDS

Applicant filed an IDS on January 4, 2006 (PTO mailing room acknowledged receipt on January 9, 2006). The examiner, however, did not appear to have considered this IDS as the examiner did not include a copy of the initialed IDS (PTO/SB/08A). Applicant requests that the examiner consider the references cited in this IDS and forward a copy of the initialed IDS.

Amendment

Claims 1, 2, 7, and 8 have been amended to improve their form and clarity, and new claims 12-14 have been added to further define the present invention. Independent claims 1, 2, and 7 have been amended to clarify that the extracted music playing data file is MIDI data for controlling a tone generator for generating musical tone signals for a musical performance from a given music work resource, which includes encrypted or unencrypted MIDI or non-MIDI data. As to new claims 12-14 see at least pages 10-12 for support. No new matter has been introduced.

Art Rejection

Claims 1-3 and 7-11 were rejected under 35 U.S.C. § 103(a) as unpatentable over Haruki (USPGP 2002/0126874) in view of Eller (USP 5,889,860) and Bell (USP 5,119,711), and claims 4-6 were rejected under § 103(a) as unpatentable over Haruki in view of Eller, Bell, and Oishi (USP 6,792,539).

Applicant previously argued that Haruki, Eller, and Oishi would not have disclosed or taught extracting MIDI data. In response, the examiner applied Bell for the proposition that extracting MIDI data is well known. Independent claims 1, 2, and 7 now explicitly defines that the music playing data is MIDI data for controlling a tone generator for generating musical tone signals for a musical performance. Applicant submits that Bell would have disclosed or taught extracting such MIDI data.

Specifically, independent claims 1, 2, and 7 call for extracting MIDI data (music playing data) for controlling a tone generator for generating musical tone signals for a musical performance from a given music work resource, which includes encrypted or unencrypted MIDI

or non-MIDI data. The MIDI data thus does not correspond to audio data, such as PCM, MP3, AIFF, WAV. Infact, MIDI data does not contain any such audio data signals.

As previously explained, Haruki merely discloses “ripping” and compressing audio data (such as PCM, MP3, AIFF, WAV files), not extracting any music playing data file, such as MIDI. In realizing this shortcoming, the examiner relied upon Bell for the proposition that extracting MIDI data would have been obvious. Applicant submits that even if the combination urged by the examiner were deemed proper for argument’s sake, the combination still would not have taught extracting MIDI data for controlling a tone generator for generating musical tone signals.

Indeed, Eller discloses a way of encrypting/decrypting music score data transmitted or distributed via a network. Although the examiner asserts that Eller discloses an encrypting device for encrypting extracted music playing data, what is encrypted is a music score data file, and not any MIDI data for controlling a tone generator for generating musical tone signals for a musical performance. Bell also does not disclose or teach extracting music playing data. Instead, Bell discloses extracting voice assignment information from a MIDI data file. The voice assignment data is merely data for designating a program change, such as color tone or voice selection, and not for controlling a tone generator to generate tones or notes. See in particular column 3, lines 35-50, where it discloses that the synthesizer (tone generator) can ignore the extracted data, which means that it is not required for generating tones or notes. Accordingly, applicant submits that the applied references would not have taught extracting MIDI data for controlling a tone generator for generating musical tone signals for a musical performance as claimed.

Conclusion

Applicant submits that claims 1-14 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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04 DECEMBER 2006

DATE

/Lyle Kimms/

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REG. NO. 34,079 (RULE 34, WHERE APPLICABLE)

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